



UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/501,970

02/10/00

ALMQVIST

C

00-148

WM01/0508

GREGORY P LA POINTE
BACHMAN & LA POINTE P C
900 CHAPEL STREET
NEW HAVEN CT 06510

EXAMINER

TRAN, S

ART UNIT

PAPER NUMBER

2643

DATE MAILED:

05/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/501,970

Applicant(s)

ALMQVIST, CHRISTER

Examiner

Sinh Tran

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald (5,113,428) in view of Shurman et al (6,091,832).

Regarding claims 1-2, Fitzgerald discloses a headset comprising first and second auditory cups (12, 14); headband (16); a microphone (62); an electronic unit (105) actuable by a button set (buttons on the cup shown in Fig. 1). The button set includes a plurality of associated buttons arranged in groups (101, 103, 107, 109, 111 and 113 in one group and 121, 122 in another group) and that each group is disposed in a separate depression or recess in the cup.

Fitzgerald fails to disclose a control unit which adjusts the volume relationship between sound from a radio unit and sound from the microphone. Shurman et al teaches a control unit (266) implemented in a headset for controlling a radio unit and at the microphone unit (two audio input devices, see col. 13, lines 63 through col. 14, lines 1-10). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Shurman of providing two audio systems in the headset to the headset of Fitzgerald to provide multi-system usage. The combination of Fitzgerald in view of Shurman further teaches that when the microphone signals exceed a preset level, the audio amplifiers mutes the output for a preset time (see col. 13, lines 41-45).

Regarding claim 5, the combination fails to disclose that a brief depression of a button is provided for shutting off sound from the radio unit and a lengthy depression of the same button is to shut off the both radio and microphone. Providing appropriate switching mechanisms to activate electronic devices by brief or lengthy depression are well known in the art. Therefore, it would have been obvious for one of ordinary skill in the art to provide any appropriate switching mechanisms, including a button depression (brief or lengthy) mechanism to implement the required switching of the radio and the microphone of the combination.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald in view of Shurman et al and further in view of Schenk (5,619,477).

The combination fails to disclose that the buttons are provided with relief symbol indicating the function of buttons. Schenk teaches the use of symbols and relief configurations on watches, clocks and devices so that they are easy to operate since it is represented in a form easy to note and identify (see col.4, lines 62-67 through col. 5, lines 2-3). Therefore, it would have been obvious to one of ordinary skill in the art to provide the buttons of the combination with relief symbols as taught by Schenk for the purpose of operating the by identifying the symbols.

Allowable Subject Matter

4. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sinh Tran whose telephone number is (703) 305-4040. The examiner can normally be reached on M-F 7:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703) 305-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-9051 for regular communications and (703) 308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

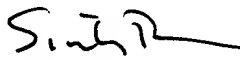
or faxed to:

(703) 308-9051, (for formal communications intended for entry)

or:

(703) 308-6296, (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor
(Receptionist).


Sinh Tran
Primary Examiner
Art Unit 2643

ST
May 4, 2001